

## MINUTES

### MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION

#### SUBCOMMITTEE ON PROPERTY TAX

**Call to Order:** By CHAIRMAN COHEN, on February 12, 1991, at 8:04 AM.

#### ROLL CALL

**Members Present:**

Rep. Dan Harrington, Chairman (D)  
Rep. Ben Cohen, Vice-Chairman (D)  
Rep. Ed Dolezal (D)  
Rep. Russell Fagg (R)  
Rep. David Hoffman (R)  
Rep. Ed McCaffree (D)  
Rep. Mark O'Keefe (D)  
Rep. Ted Schye (D)  
Rep. Dave Wanzenried (D)

**Members Absent:**

Rep. Orval Ellison (R)  
Rep. Fred Thomas (R)

**Staff Present:** Lee Heiman, Legislative Council  
Julia Tonkovich, Committee Secretary

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

#### DISCUSSION ON HB 312

REP. HOFFMAN explained that district courts are funded by local mill levy. A statute was passed several sessions ago which allows 7% of the 2% motor vehicle fee to be used to create a reimbursement program which funds criminal case expenses in district court. These expenses include court reporter and witness fees, transcripts, expert witnesses, etc.; salaries and office updating are not covered. Any criminal case within the counties is funded 100% through this reimbursement program. Excess funds are transferred to the grant aid program, which allows the county to apply for reimbursement of civil court case costs, but only after they've levied their maximum mills (4, 5 or 6 depending on the county classification). However, there's not enough money left from the reimbursement program to allow grant aid to reimburse more than approximately 7 cents/dollar. The grant aid program is virtually worthless because of lack of funding.

REP. COHEN asked how additional court costs are dealt with at present. REP. HOFFMAN said this varies from county to county; for example, in Cascade County, the court ran out of funds in April of 1990 and stopped all civil trials until the beginning of the new fiscal year (July 1). After the new fiscal year began, there was enough money for the court to operate until mid-November. District court threatened to close again, but instead ordered county commissioners to issue warrants to pay for the court. In other counties, commissioners have been ordered by the court to exceed the mill levy, or have voluntarily issued warrants.

REP. COHEN asked how these warrants are paid; REP. HOFFMAN said that the districts themselves, not by General Fund or district court levy, must pay via property taxes.

REP. WANZENRIED said there had been testimony that some districts were drawing on school reserve funds to pay for court costs.

REP. DOLEZAL clarified the warrant process. Once districts draw up warrants, they need to pay back the source (school reserve fund, in this case) with interest.

REP. COHEN asked why civil court cases cannot pay for themselves. REP. HOFFMAN said although involved parties must pay for their own witnesses, there are still basic court operation costs which the districts must cover. Additionally, there are youth court expenses, which account for a large portion of the district court budget. Youth court cases may not be classified as criminal cases; therefore, they can't be paid for by the reimbursement program.

REP. HOFFMAN explained the existing "three-tier" court finance program. The first tier is the reimbursement program, which covers criminal expenses. The second is county mills, and the third is the grant aid, which is ineffectual. HB 312 proposes to add youth court expenses to the reimbursement program. This reimbursement will be made regardless of what the county levies. The second tier (county levy) would remain as is, and the third tier would be funded by whatever revenue the county could obtain to cover civil costs.

REP. COHEN asked whether there is enough money in the reimbursement program to pay for the addition of youth court costs. REP. HOFFMAN said not at present; however, a statewide property tax could be implemented.

Larry Fasbender, Great Falls Public Schools, presented the committee with a proposed statewide property tax to fund youth court cost reimbursement. A 2.0 mill levy would fully fund youth court costs; 2 mills would slightly exceed necessary funds. Different counties are affected at varying rates; some counties would experience a substantial decline in mill levies, while others would see an increase.

REP. O'KEEFE asked Mr. Fasbender to clarify the plan, using Lewis and Clark County as an example. Mr. Fasbender said a 2-mill levy would generate \$129,000. Youth/probation court costs are budgeted at \$139,000, so Lewis and Clark would gain \$10,000. This amount will be levied in addition to the amount already levied by the county.

REP. WANZENRIED asked if, in Cascade County, the district court expenses have typically exceeded the budget amount. Mr. Fasbender said the county will have accumulated a deficit of approximately \$600,000 by the end of this fiscal year. REP. WANZENRIED said, looking at the example of Cascade County, the only way the program outlined in HB 312 will work is if the costs don't exceed budgeted amounts. There must be an adjustment for cost growth. Mr. Fasbender said counties have tapped into a variety of funds to cover court costs, and a growing number of counties are beginning to have difficulty paying court costs because of diminishing fund sources.

REP. DOLEZAL asked where extra funding comes from if a county is still short of funds for youth court costs after the additional 2 mills have been levied. Mr. Fasbender said since the levy is statewide, the levied funds will be redistributed to the counties based on court cost/county. In closing, the court operation costs are currently about \$15 million per year. Every county has court costs. The costs of youth court/probation could be split between a mill levy and an increase in license fees, or by a mill levy alone.

REP. DOLEZAL said that many court cases, especially those held in Cascade County, originate in other counties and even other states; is it possible to hold those counties or states accountable for the court fees? REP. HOFFMAN said this would be difficult, as the fees would to be prorated among all the parties involved. In any case, a broad-based fund source is preferable to a property tax.

REP. WANZENRIED said that the committee's purpose is to determine a funding source, not court policy, and asked the committee to try to determine the best funding option.

REP. MCCAFFREE said a broad funding source for the program proposed by HB 312 would be an additional motor vehicle license plate fee. This would spread the cost among a larger group of people than would a property tax, and since 2/3 of all civil court cases deal with automobiles, it's a justifiable fee. Estimating the state has 1 million automobiles, an additional \$3 license plate fee would cover the proposed program.

REP. O'KEEFE asked whether this would mean raising the base fee. REP. MCCAFFREE said currently there is a \$5 and a \$10 base fee; this would raise these fees to \$8 and \$13.

REP. COHEN asked whether Mr. Fasbender had prepared any options

to the specific proposals. Mr. Fasbender replied both license plate fees and property taxes could be used to fund the courts, so the funding wouldn't rely solely on one source. There is near-universal resistance to any tax raise. Taxing vehicle licenses, although perhaps a more equitable solution than a property tax, may place an additional burden on high-population counties that already pick up a large part of the current bill.

REP. COHEN said of the total school budget, only 30% comes from state property taxes. Mr. Fasbender replied 30% is still a substantial amount of funding.

REP. COHEN said district courts are currently funded by a capped property tax; some counties don't levy it at all, while other counties are beyond their caps.

REP. HOFFMAN said these counties pay the district courts out of their General Fund. Before any county is subject to reimbursement for district court civil costs, it must levy the maximum under statute; these counties would only receive youth court/probation funds under HB 312's proposal.


REP. O'KEEFE said REP. MCCAFFREE's proposal to place a "user fee" on vehicle licensing is a better mechanism than an additional statewide 2-mill levy. Without a solid funding source, HB 312 will never pass in taxation, let alone appropriations.

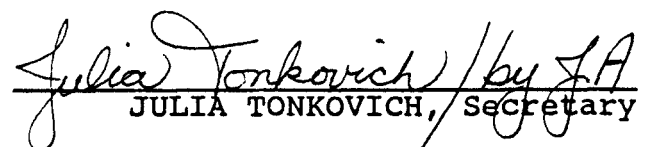
REP. HOFFMAN said a \$3 license plate fee is politically preferable to a property tax; however, constituents in less-populated counties will not benefit from the fee, as the money generated will go to those counties needing additional funds for civil court cases.

REP. COHEN appointed REP. HOFFMAN, REP. MCCAFFREE, and REP. SCHYE to work with Mr. Fasbender on a committee to secure a funding source plan for HB 312.

ADJOURNMENT

Adjournment: 8:47 AM

  
BEN COHEN, Chair

  
JULIA TONKOVICH, Secretary

BC/jmt

HOUSE OF REPRESENTATIVES  
PROPERTY TAX SUBCOMMITTEE

ROLL CALL

DATE

2-2-91

NAME	PRESENT	ABSENT	EXCUSED
REP. BEN COHEN, VICE-CHAIR	X		
REP. ED DOLEZAL	X		
REP. ORVAL ELLISON		X	
REP. RUSSELL FAGG	X		
REP. DAVID HOFFMAN	X		
REP. ED MCCAFFREE	X		
REP. MARK O'KEEFE	X		
REP. TED SCHYE	X		
REP. FRED THOMAS		X	
REP. DAVE WANZENRIED	X		
REP. DAN HARRINGTON, CHAIRMAN	X		

## VISITOR'S REGISTER

AGENCY (S) PROPERTY TAX SUBCOMMITTEE  
TAXATION COMMITTEE DATE 2/12/91  
DEPARTMENT HOUSE OF REPRESENTATIVES

NAME	REPRESENTING	SUP- PORT	OP- POSE
<i>Samantha Sanchez</i>	<i>MAPP</i>		
<i>Wanda Allyn</i>	<i>DAU</i>		
<i>Judy Rippingale</i>	<i>DOR</i>		

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT.  
IF YOU HAVE WRITTEN COMMENTS, PLEASE GIVE A COPY TO THE SECRETARY.